



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 18 of the Housing (Scotland) act  
1988**

**Chamber Ref: FTS/HPC/EV/23/0700**

**Re: Property at 2<sup>nd</sup> Floor Left, 12 Factory Road, Kirkcaldy, KY1 2NH  
("the Property")**

**Parties:**

**Mr John Taggerty, 32 Beechwood Drive, Glenrothes, Fife, KY7 6GE, ("the  
Applicant")**

**Ms Sarah Houston, 2<sup>nd</sup> Floor Left, 12 Factory Road, Kirkcaldy, KY1 2NH ("the  
Respondent")**

**Tribunal Members: Gillian Buchanan, Legal Member  
Ahsan Khan, Ordinary member**

**Decision (in absence of the Respondent)**

At the Case Management Discussion ("CMD"), which took place by telephone conference on 28 August 2023, the Applicant was present and was represented by Ms Chloe Herd of Clarity Simplicity Limited. The Respondent was neither present nor represented and had lodged no written representations.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

The CMD was in respect of this matter and the related case bearing reference FTS/HPC/CV/23/0613.

Prior to the CMD the Tribunal received the following additional representations from the Applicant's representative:-

- i. Email dated 2 June 2023; and
- ii. Email dated 21 August 2023.

## **The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:-**

### **Background**

The Tribunal noted the following background:-

- i. The Applicant leased the Property to the Respondent in terms of a Tenancy Agreement that commenced on 8 April 2015.
- ii. The rent payable in terms of the Tenancy Agreement is £450 per month.
- iii. The Tenancy Agreement could not be produced.
- iv. On 5 October 2021 on the instructions of the Applicant, Sheriff Officers served on the Respondent a Notice to Quit dated 29 September 2021.
- v. On 25 November 2022 on the instructions of the Applicant, Sheriff Officers served on the Respondent a Form AT6 under and in terms of Section 19 of the Housing (Scotland) Act 1988 (“the 1988 Act”) giving the Respondent notice of his intention to raise proceedings to recover possession of the Property no earlier than 25 January 2023 on account of rent arrears accrued. The Form AT6 proceeded on the basis of rent arrears then totalling £3,439 and by reference to Grounds 8A, 11 and 12 of Part 1 of Schedule 5 of the 1988 Act.
- vi. The Applicant’s agent issued a pre-action protocol letter on 26 January 2023.
- vii. The Applicant’s agent has served on Fife Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

### **The CMD**

At the CMD Ms Herd for the Applicant and the Applicant made the following representations:-

- i. The rent arrears balance as at the CMD is £6,372.61 up to and including July 2023. The August rental payment is now also due.
- ii. No payments have been made since January 2023.
- iii. The Respondent was previously in receipt of Universal Credit which was paid to her in full. The Applicant arranged for the housing costs element of the Universal Credit to be paid to him directly.
- iv. The Respondent used to pay the rent in full She then stopped paying the shortfall between the Universal Credit paid and the rent due.
- v. The Respondent is believed to still occupy the Property. The Applicant spoke to her through the door on 12 June 2023. The Applicant attended at the Property following the Sheriff Officers’ report stating that the Property was empty. She is believed to live in the Property with her adult son.
- vi. The Applicant does not know the Respondent’s circumstances.
- vii. The Respondent has not engaged.
- viii. The Applicant continues to pay the mortgage on the Property at £512.81 per month. He is suffering and continues to suffer loss due to the non-payment of rent.
- ix. The Applicant seeks an eviction order under Ground 8A of Part 1 of Schedule 5 of the 1988 Act. It is reasonable to grant such an order.

### **Findings in Fact**

- i. The Applicant leased the Property to the Respondent in terms of a Tenancy Agreement that commenced on 8 April 2015.
- ii. The rent payable in terms of the Tenancy Agreement is £450 per month.
- iii. On 5 October 2021 on the instructions of the Applicant, Sheriff Officers served on the Respondent a Notice to Quit dated 29 September 2021.
- iv. On 25 November 2022 on the instructions of the Applicant, Sheriff Officers served on the Respondent a Form AT6 under and in terms of Section 19 of the Housing (Scotland) Act 1988 (“the 1988 Act”) giving the Respondent notice of his intention

to raise proceedings to recover possession of the Property no earlier than 25 January 2023 on account of rent arrears accrued. The Form AT6 proceeded on the basis of rent arrears then totalling £3,439 and by reference to Grounds 8A, 11 and 12 of Part 1 of Schedule 5 of the 1988 Act.

- v. The Applicant's agent issued a pre-action protocol letter on 26 January 2023.
- vi. The Applicant's agent has served on Fife Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003. It is reasonable to grant an eviction order.
- vii. The rent arrears balance as at the CMD is £6,372.61 up to and including July 2023. The August rental payment is now also due.
- viii. No payments have been made since January 2023.
- ix. It is reasonable to grant an eviction order under Ground 8A of Part 1 of Schedule 5 of the 1988 Act.

### **Reasons for Decision**

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application papers and orally by him and on his behalf at the CMD was not challenged and was accepted by the Tribunal.

The Tribunal considered whether or not it would be reasonable to grant an eviction order and determined that it is reasonable to grant an eviction order under Ground 8A of Part I of Schedule 5 of the 1988 Act.

### **Decision**

The Tribunal grants an order for the Respondent's eviction from the Property.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

Gillian Buchanan



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**Legal Member/Chair**

**28 August 2023**

**Date**